Supreme Court, U.S.
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In the Supreme Court of the United States

TVT RECORDS AND TVT MUSIC, INC.,
PETITIONERS,

v.

THE ISLAND DEF JAM MUSIC GROUP
AND LYOR COHEN,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Second Circuit, in conflict with the law of the First, Third, Fourth and Fifth Circuits, erred by setting aside the jury's verdict and granting judgment as a matter of law, on grounds not preserved in Respondents' motions under Federal Rule of Civil Procedure 50, based on its view that the strictures of Rule 50 do not apply to "questions of law."

RULE 29.6 STATEMENT

Neither Petitioner TVT Records, nor Petitioner TVT Music Inc., is publicly traded. Petitioners' corporate parent, Tee Vee Toons, Inc., is not publicly traded.

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OPINIONS BELOW

The District Court's opinions can be found at 244 F. Supp. 2d 263 (Pet. App.[1] 22a-45a), 2003 U.S. Dist. LEXIS 5909 (Pet. App. 46a-56a), 262 F. Supp. 2d 188 (Pet. App. 57a-84a), and 279 F. Supp. 2d 366 (Pet. App. 85a-158a). The Second Circuit's opinion is reported at 412 F.3d 82 (Pet. App. 1a-21a).

JURISDICTION

The Second Circuit denied TVT's petition for rehearing and suggestion for rehearing *en banc* on January 3, 2006 (Pet. App. 159a-160a). This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

Rule 50 of the Federal Rules of Civil Procedure provides in pertinent part:

> (a) Judgment as a Matter of Law.
>
> (1) If during a trial by jury a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue, the court may determine the issue against that party and may grant a motion for judgment as a matter of law against that party with respect to a claim or defense that cannot under the controlling law be maintained or defeated without a favorable finding on that issue.
>
> (2) Motions for judgment as a matter of law may be made at any time before submission of the case to the jury. Such a motion shall specify the judgment sought and the law and the facts on which the moving party is entitled to the judgment.
>
> (b) Renewing Motion for Judgment After Trial; Alternative Motion for New Trial. If, for any reason, the court does not grant a motion for judgment as a

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[1] "Pet. App." refers to the Petitioner's Appendix, attached hereto.

> matter of law made at the close of all the evidence, the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. The movant may renew its request for judgment as a matter of law by filing a motion no later than 10 days after entry of judgment ....

The Seventh Amendment to the United States Constitution provides:

> In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

U.S. Const. amend. VII.

STATEMENT OF THE CASE

This case arises out of actions by Island Def Jam Music Group, a division of UMG Recordings, Inc. ("IDJ"), and IDJ's then chairman Lyor Cohen ("Cohen") (collectively "Respondents") to thwart Petitioners TVT Records' and TVT Music, Inc.'s (collectively "TVT") efforts to create and market an album by superstars in the hip-hop music industry. TVT sued Respondents over their conduct, and a jury awarded it $132 million. However, the Second Circuit set aside the verdict and granted judgment as a matter of law ("JMOL") to Respondents. It did so on grounds that Respondents failed to preserve in compliance with the clear requirements of Federal Rule of Civil Procedure 50. The decision below warrants this Court's attention for two reasons.

First, it contravenes the Court's longstanding precedents mandating strict compliance with Rule 50 and emphasizing the Rule's critical role in protecting the Seventh Amendment right to jury trial. These authorities include the recent decision in *Unitherm Food Systems, Inc. v. Swift-Eckrich, Inc.*, 126 S. Ct. 980 (2006). *Unitherm* held